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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,678	12/21/2001	Boris G. Traktovenko	60,469-055; OT-4994	4980

7590 09/04/2003

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EXAMINER

FLANDRO, RYAN M

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 09/04/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,678

Applicant(s)

TRAKTOVENKO ET AL.

Examiner

Ryan M Flandro

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 5-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10-21, 23, 24, 26 and 27 is/are rejected.
- 7) ☒ Claim(s) 22 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Specification

2. In light of Applicant's amendment to the specification submitted 30 June 2003 (paper no. 5), the Examiner's objection to the specification is hereby withdrawn.

Drawings

3. The drawings were received on 13 August 2003. These drawings are acceptable.

Claim Rejections - 35 USC § 102

4. Claims 1-4, 10, 11, 13-16, 19, 21, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt (US 5,243,739).
 - a. Claim 1. Schmidt shows a socket portion **11** having oppositely facing engaging surfaces (inside surfaces of walls **20**) inside the socket portion **11**; a wedge portion **52** that is at least partially received within the socket portion **11** such that a portion of the elongated load bearing member **62** is received between the engaging surfaces **20** of socket portion **11** and the wedge portion **52**; and at least one brace member **15** that secures the wedge portion **52** within the socket portion **11** (see figures 1-3).
 - b. Claim 2. Schmidt further shows and discloses the socket portion **11** is an extruded metal piece (see figures 1-3).

- c. Claim 3. Schmidt also shows and discloses that the wedge portion **52** is an extruded metal piece (see figures 1-3).
- d. Claim 4. Schmidt shows the socket portion **11** and the wedge portion **52** having a constant cross sectional profile (see figures 1-3).
- e. Claim 10. Schmidt further shows the brace **15** is an extruded metal piece that is received at least partially around the socket **11** (see figures 1-3).
- f. Claim 11. Schmidt shows the socket **11** including a projection **60** that operates to hold the brace **15** in place on the socket **11** (see figures 1-3).
- g. Claim 13. Schmidt shows an extruded socket portion **11** having oppositely facing engaging surfaces (inside surfaces of walls **20**) inside the socket portion **11**; and an extruded wedge portion **52** that is at least partially received within the socket portion **11** such that a portion of the elongated load bearing member **62** is received between the engaging surfaces **20** of the socket portion **11** and the wedge portion **52** (see figures 1-3).
- h. Claim 14. Schmidt shows at least one brace member **15** that secures the wedge portion **52** within the socket portion **11** (see figures 1-3).
- i. Claim 15. Schmidt shows that the brace member **15** is an extruded metal piece (see figures 1-3).
- j. Claim 16. Schmidt shows the socket **11** including a projection **60** that operates to hold the brace **15** in place on the socket **11** (see figures 1-3).
- k. Claim 19. Schmidt shows a brace portion **36** that secures the wedge portion **52** within the socket portion **11** and wherein the brace portion **36** includes a load bearing member

engaging surface **44** that is adapted to secure a portion of the load bearing member **62** between the brace member **15** and the socket portion **11** (figures 2-3).

l. Claims 21 and 23. Schmidt shows the engaging surfaces (inwardly facing surfaces of walls **20**) on the socket portion **11** being part of a continuous engaging surface (circumscribing receptacle **21**) inside the socket portion **11** (see figures 1-3).

5. Claims 1-4, 10-18, 20, 24, 26, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Brendal (US 5,243,739).

a. Claim 1. Brendal shows a socket portion **2,7** having oppositely facing engaging surfaces **5** inside the socket portion **2,7**; a wedge portion **9** that is at least partially received within the socket portion **2,7** such that a portion of an elongated load bearing member **6** is received between the engaging surfaces **5** of socket portion **2,7** and the wedge portion **9**; and at least one brace member **12** that secures the wedge portion **9** within the socket portion **2,7** (see figures 1-3).

b. Claim 2. Brendal further shows and discloses the socket portion **2,7** being an extruded metal piece (see figures 1-3; see column 8 lines 42-47).

c. Claim 3. Brendal also shows and discloses that the wedge portion **9** being an extruded metal piece (see figures 1-3; see column 8 lines 42-47).

d. Claim 4. Brendal further shows the socket portion **2,7** and the wedge portion **9** have a constant cross sectional profile (see figures 1-3).

e. Claim 10. Brendal further shows the brace **12** is an extruded metal piece (see column 8 lines 42-47) that is received at least partially around the socket **2,7** (see figures 1-3).

- f. Claim 11. Brendal shows the socket **2,7** including a projection **15 or 22** that operates to hold the brace **12** in place on the socket **2,7** (see figures 1-3).
- g. Claim 13. Brendal clearly shows and discloses an extruded socket portion **2,7** having oppositely facing engaging surfaces **5** (inside surfaces of walls of **2,7** – see figures 7-10) inside the socket portion **2,7**; and an extruded wedge portion **9** that is at least partially received within the socket portion **2,7** such that a portion of an elongated load bearing member **6** is received between the engaging surfaces **5** of the socket portion **2,7** and the wedge portion **9** (see figures 1-6; see especially column 5 lines 32-39).
- h. Claim 14. Brendal shows at least one brace member **12** that secures the wedge portion **9** within the socket portion **2,7** (see figures 1-3).
- m. Claim 15. Brendal shows that the brace member **12** is an extruded metal piece (see figures 1-3; see column 8 lines 42-47).
- n. Claim 16. Brendal shows the socket **2,7** including a projection **15 or 22** that operates to hold the brace **12** in place on the socket **2,7** (see figures 1-3).
- i. Claims 12 and 17. Brendal further shows the brace **12** including an opening (circumscribed by element **14**) through at least one sidewall of the brace **12** and the wedge portion **9** includes an opening **10**, the openings being situated such that a tool can be received into the openings and utilized to manipulate the wedge portion **9** relative to the brace **12** (see figures 1-3).
- j. Claim 18. Brendal shows and discloses the socket portion **2,7** including a first leg **2** and a second leg **7**, the first leg **2** being obliquely oriented relative to the second leg **7** (see figures 2 and 3) and being movable into a generally parallel alignment with the

second leg 7 (see figures 1 and 4) responsive to movement of the wedge portion 9 within the socket portion 2,7 (see figures 1-4).

k. Claims 20 and 24. Brendal, as applied to claim 1 above, further shows the wedge portion 9 having oppositely facing engaging surfaces 5' (see figures 14 and 19) on an outside of the wedge portion 9 and wherein one section of the elongated load bearing member 6 is held between one of the wedge portion engaging surfaces 5' and one of the socket portion engaging surfaces 5 and wherein another section of the load bearing member is held between the other wedge portion engaging surface 5' and the other socket portion engaging surface 5 (see figures 1-3, 7-10, and especially figure 5).

l. Claim 26. Brendal shows a socket portion 2,7; a wedge portion 9 that is at least partially received within the socket portion 2,7 such that a portion of an elongated load bearing member 6 is received between the socket portion 2,7 and the wedge portion 9; and at least one brace member 12 that secures the wedge portion 9 within the socket portion 2,7, the brace member 12 including an opening (circumscribed by element 14) through at least one wall of the brace member 12 and the wedge portion 9 including an opening 10, the openings being situated such that a tool can be received into the openings and utilized to manipulate the wedge portion 9 relative to the brace 12 (see figures 1-4).

m. Claim 27. Brendal shows an extruded socket portion 2,7; and an extruded wedge portion 9 that is at least partially received within the socket portion 2,7 such that a portion of the elongated load bearing member 6 is received between the socket portion 2,7 and the wedge portion 9, the socket portion 2,7 including a first leg 2 and a second leg 7, the first leg 2 being obliquely oriented relative to the second leg 7 (see figures 2 and 3) and

being movable into a second alignment with the second leg 7 (see figures 1 and 4) responsive to movement of the wedge portion 9 within the socket portion 2,7.

Claim Rejections - 35 USC § 103

6. Claims 12, 17, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt, as applied above, in view of Reynolds (US 2,085,333). Schmidt lacks disclosure of the brace including an opening through at least one sidewall of the brace and the wedge portion includes an opening, the openings being situated such that a tool can be received into the openings and utilized to manipulate the wedge portion relative to the brace. Reynolds, however, teaches a wedge portion 31 including an opening 36, such that a tool can be received into the opening 36 and utilized to manipulate the wedge portion 31 relative to a socket portion 20 (see figure 1; column 3 lines 55-61). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made modify the brace and wedge of Schmidt by providing access holes in order to allow easy removal of the wedge by use of a tool as taught by Reynolds.

Response to Arguments

7. Applicant's arguments filed 30 June 2003 have been fully considered but they are not persuasive.

a. First, Applicant argues that "Schmidt does not show an arrangement where a socket portion has oppositely facing engaging surfaces." The Examiner respectfully disagrees. The inside surfaces of Schmidt's walls 20 are broadly interpreted to be considered

engaging surfaces. Applicant adds that “[o]nly one *cable* engaging surface exists on the housing portion 11” (emphasis added). The Examiner agrees with this characterization, but notes that the limitation of the engaging surfaces being strictly “cable engaging surfaces” is not recited in the claim in such a manner. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As such, the Examiner maintains that Schmidt reads on the claims as presently recited.

b. Next, Applicant argues that the combination of Schmidt and Reynolds is improper because there is no “legal motivation” and that “[t]here is no benefit to making the combination” (see paper no. 5, page 9). In response, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Reynolds explicitly teaches that providing access to the wedge through openings and via a tool aids in removal of the wedge (see figures 1, 6, and 9-11; column 3 lines 55-61 and column 4 lines 59-61). The fact that Schmidt discloses a different arrangement for separating the wedge and the housing is irrelevant. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test

Art Unit: 3679

is *what the combined teachings of the references would have suggested* to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981) (emphasis added).

8. Applicant's arguments with respect to claim 18 have been considered and are persuasive, but are moot in view of the new ground(s) of rejection necessitated by amendment to claim 13.

Allowable Subject Matter

9. Claims 22 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: the prior art, including Schmidt, Brendal and Reynolds, either alone or in combination, lacks disclosure of cooperating engaging surfaces on the outside socket portion and on the inside of the brace member for holding a section of the load bearing member between the cooperating surfaces.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to load member termination assemblies:

U.S. Patent Publication 2002/0154945 A1 to Ericson

U.S. Patent 6,513,204 B2 to Rivera et al.

U.S. Patent 6,353,979 B1 to Traktovenko

U.S. Patent 6,345,419 B1 to Traktovenko

U.S. Patent 1,644,376 to Haworth

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan M Flandro whose telephone number is (703) 305-6952.

The examiner can normally be reached on 8:30am - 5:30pm Mon-Fri.

Art Unit: 3679

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on (703) 308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

RMF
August 29, 2003


Lynne H. Browne
Supervisory Patent Examiner
Technology Center 3670